



DEPARTMENT OF THE NAVY

BOARD FOR CORRECTION OF NAVAL RECORDS

2 NAVY ANNEX

WASHINGTON DC 20370-5100

BJG

Docket No: 6514-99

6 January 2000

CWO3 [REDACTED] USMC

Dear Chief Warrant Officer [REDACTED]

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

It is noted that the Commandant of the Marine Corps (CMC) has modified your contested fitness report for 10 May 1997 to 22 May 1998, by removing the sentence "Professional growth would benefit from a more forceful leadership style and a more active role in daily Maintenance Control functions."

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, considered your application on 5 January 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the report of the Headquarters Marine Corps (HQMC) Performance Evaluation Review Board (PERB), dated 14 October 1999, and the advisory opinion from the HQMC Officer Career Counseling and Evaluation Section, Officer Assignment Branch, Personnel Management Division (MMOA-4), dated 22 November 1999, copies of which are attached.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish probable material error or injustice. In this connection, they substantially concurred with the PERB in finding that no further correction of your fitness report record was warranted. Regarding your assertion that item 5a of the contested fitness report for 10 May 1997 to 22 May 1998 should not read "NMED" (not medically qualified to take the Physical Fitness Test (PFT)), they were unable to find the PFT you did take was the last in the reporting period. They agreed with MMOA-4 in concluding that your failure by the Fiscal Year 1999 Chief Warrant Officer-3 Selection Board should stand. In view of the above, your application for relief beyond that effected by CMC has been denied. The names and votes of the members of the panel will be furnished on request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

6-514-99

IN REPLY REFER TO:  
1610  
MMER/PERB  
OCT 14 1999

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: MARINE CORPS PERFORMANCE EVALUATION REVIEW BOARD (PERB)  
ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF CWO-2  
[REDACTED] USMC

Ref: (a) CWO-[REDACTED]'s DD Form 149 of 28 May 99  
(b) MCO P1610.7D w/Ch 1-2  
(c) MCO P1610.7D w/Ch 1-4

1. Per MCO 1610.11C, the Performance Evaluation Review Board, with three members present, met on 6 October 1999 to consider [REDACTED]'s petition contained in reference (a). Action as indicated was requested on the following fitness reports:

a. Report A - 960801 to 970509 (AN) -- Addition of a statement to Section C. Reference (b) applies.

b. Report B - 970510 to 980522 (CH) -- Removal in its entirety. Reference (c) applies.

2. The petitioner contends that the absence of pregnancy/postpartum information in the narrative portion of Report A could easily give an impression that she was unqualified for promotion. She states that reference (b) clearly requires a Reporting Senior to provide a specified comment concerning this issue. Concerning Report B, the petitioner alleges the report does not accurately portray her performance during the stated period for three reasons. First, the entry in Item 5a is incorrect; second, she was not afforded an opportunity to acknowledge and respond to the adverse matter in Section C; and third, there was a "prejudicial attitude" prevalent in the command during the period encompassed by Report B.

3. In its proceedings, the PERB concluded that:

a. Report A is both administratively correct and procedurally complete as written and filed. While the Reporting Senior omitted any information concerning the petitioner's pregnancy and postpartum recovery period, Lieutenant Colonel [REDACTED] (the Reviewing Officer) clearly explained why the petitioner did not take the PFT and further clarified the height-to-weight status. The petitioner is in error in alleging that a more specifically worded clarification should be added per the

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF CWO-2  
[REDACTED] USMC

instructions contained in change four of reference (b). The Reviewing Officer conducted his review on 15 May 1997; change four was neither published nor effective until 3 November 1997.

b. With one minor exception, Report B is both administratively correct and procedurally complete as written and filed. The following is offered as relevant:

(1) The Board agrees with the petitioner concerning the challenged statement in Section C of Report B (i.e., "Professional growth would benefit from a more forceful leadership style and a more active role in daily Maintenance Control functions."). The Board specifically notes that the petitioner was graded "outstanding" in Items 13a (Regular Duties), 14d (Attention to Duty), 14j (Leadership) and 14m (Economy of Management). Therefore, the argued sentence is seemingly contradictory, inappropriate, and adverse. The Board does not, however, find that complete removal of the report is necessary. Instead, they have directed the elimination of the sentence identified above.

(2) Notwithstanding the petitioner's arguments, the Board is not persuaded or convinced that Report B is anything other than a fair, objective, and accurate evaluation of her overall performance during the stated period. The alleged "prejudicial attitude" within the command has not been proven or documented; nor has it been shown that the Reporting Senior was unduly influenced by the Commanding Officer. To this end, the Board concludes that the petitioner has failed to meet the burden of proof necessary to establish the existence of either an error or an injustice.

4. The Board's opinion, based on deliberation and secret ballot vote, is that the contested fitness reports should remain a part of [REDACTED]'s official military record. The limited corrective action identified in subparagraph 3b(1) above is considered sufficient.

5. As a matter of information, C [REDACTED] was selected for promotion to the grade of CWO-3 by the FY00 U. S. Marine Corps Chief Warrant Officer Selection Board (ALNAV 083/99 applies).

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ADVISORY OPINION ON BCNR APPLICATION IN THE CASE OF CWO-2  
M [REDACTED] USMC

6. The case is forwarded for final action.

[REDACTED]  
[REDACTED] OR.  
Colonel, U.S. Marine Corps  
Deputy Director  
Personnel Management Division  
Manpower and Reserve Affairs  
Department  
By direction of the Commandant  
of the Marine Corps



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
3280 RUSSELL ROAD  
QUANTICO, VIRGINIA 22134-5103

6514-99

IN REPLY REFER TO:  
1600  
MMAA-4  
22 Nov 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: BCNR PETITION FOR CHIEF WARRANT OFFICER [REDACTED]  
[REDACTED] USMC

Ref: (a) MMER Request for Advisory Opinion in the case of  
Chief Warrant Officer 2 [REDACTED]  
[REDACTED] USMC of 18 Nov 99

1. Recommend disapproval of Chief Warrant Officer [REDACTED]'s  
petition to remove her failure of selection and any future  
request for backdating her date of rank.

2. Per the reference, we reviewed Chief Warrant Officer 2  
[REDACTED] record and petition. She failed selection on the  
FY99 USMC Chief Warrant Officer 3 Selection Board. Subsequently,  
she unsuccessfully petitioned the Performance Evaluation Review  
Board (PERB) for the addition of a statement to Section C of the  
fitness report for the period of 960801 to 970509 and removal of  
the fitness report for the period of 970510 to 980522. The PERB  
did direct removal of the sentence, "Professional growth would  
benefit from a more forceful leadership style and a more active  
role in daily Maintenance Control functions," from the fitness  
report for the period 970510 to 980522. She was selected for  
Chief Warrant Officer 3 on the FY00 USMC Chief Warrant Officer 3  
Selection Board from above the primary zone, prior to the PERB  
convening, with substantially the same record that appeared  
before the FY99 board. Chief Warrant Officer [REDACTED]  
requests removal of her failure of selection.

3. In our opinion, the record was *no more competitive* as it  
appeared before the FY00 Board than when it appeared before the  
FY99 Board. Both boards were able to review and evaluate Chief  
Warrant Officer 2 Danielson's record and decide whether it was  
the best and most fully qualified in relation to the other  
records considered by that particular board. Therefore, being  
selected by the FY00 Board from above the primary zone with  
substantially the same record does not imply that she did not  
receive a complete and fair evaluation by the FY99 Board.

Subj: BCNR PETITION FOR CHIEF WARRANT OFFICER 2 MARIE C.  
[REDACTED] USMC

4. In summary, we believe that Chief Warrant Officer 2 [REDACTED] petition is without merit and that her record received a substantially complete and fair evaluation by the FY99 Board. Therefore, we recommend disapproval of Chief Warrant Officer 2 [REDACTED]'s petition to remove her failure of selection and any future request for backdating her date of rank.

[REDACTED]

Lieutenant Colonel, U. S. Marine Corps  
Head, Officer Counseling and  
Evaluation Section  
Officer Assignment Branch  
Personnel Management Division